IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.34191-M of 2007
Date of Decision:- 30.10.2007

Harjeet Kaur and others ....Petitioner(s)

through
Mr.J.S.Bedi, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.
Mr.Atul Lakhanpal, Advocate for the complainant.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is to grant pre-arrest bail to the petitioners in case F.I.R. No.86 dated 20.4.2007 under Sections 406/420/120-B IPC, registered at Police Station Payal, District Ludhiana.

The above-stated F.I.R. has been registered on the complaint made by Gurdip Singh son of Harnek Singh who has, *inter alia,* alleged that the petitioners were residing in Gurdwara Dakki Sahib since the year 1992 and during this period, they having won over the confidence of Baba Darshan Singh and his associates, were entrusted with the financial affairs of the Dera and in this process, are alleged to have misappropriated/embezzled the funds of the Dera to the tune of Rs.2.5 Crores.

The petitioners on the other hand have their own tale to tell.

They have made serious allegations of land grabbing etc. against Baba Darshan Singh and his associates and have also referred to the civil and criminal cases registered/pending against him and his associates. Reference has also been made to a civil suit filed by Baba Darshan Singh through his Attorney regarding ownership and possessory rights of House No.1421, Sector 25, Panchkula which is stated to be owned and possessed by Petitioner No.1 (Harjeet Kaur) who is daughter of Petitioner No.3.

Whether the petitioners purchased the above-stated house from their own funds and/or they had mis-utilized the assets of the Dera, is a question of fact which would be gone into by the learned trial Court on the basis of evidence to be led by the parties.

It, however, *prima facie,* appears that some of the *inter se* disputes between the parties are essentially of civil nature. In this backdrop, the following ad-interim order was passed on May 25, 2007.

> "It is, *inter alia,* contended that the dispute pertains to two properties, namely, house No.1421, Sector 25, Panchkula, which was purchased in the name of petitioner No.1 in the year 2001 and in relation to which a civil suit is already pending between the parties. It is further contended that the plea taken in the FIR as if the said property was purchased *benami* in the name of petitioner No.1, is contrary to the provisions of The Benami Transactions (Prohibition) Act, 1988.
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> As regards to misappropriation of more than Rs.2 crores belonging to the Dera, reference is made to the averments

in para 8 of the civil suit where it has been shown to have been Rs.40 lacs only.

Notice of motion for 13.8.2007.

Meanwhile, in the event of arrest, the petitioners shall be released on interim bail by the Investigating Officer subject to their furnishing bail bonds to the satisfaction of the I.O. The petitioners shall, however, join and fully cooperate with the investigation and will also comply with the conditions laid down in Section 438 (2) Cr.P.C."

It is stated by Mr.Rajesh Bhardwaj, learned DAG, Punjab, on instructions from Kuldip Singh ASI, that pursuant to the aforesaid order, the petitioners have joined the investigation and are no longer required for the said purpose except that the alleged misappropriated amount of "crores of rupees" is yet to be recovered from them.

Learned counsel for the complainant has also been heard at length.

After hearing learned counsel for the parties, I am of the considered view that since the petitioners have already joined the investigation and the allegations would primarily rest upon the documentary evidence, if any, the interim order dated May 25, 2007, is made absolute, however, subject to the condition that as and when the challan is presented, the petitioners shall surrender before the learned trial Court and seek regular bail.

Disposed of.

October 30, 2007 **(SURYA KANT)**
poonam **JUDGE**